

### § 3282.413

### 24 CFR Ch. XX (4–1–12 Edition)

each notification and correction campaign can be readily identified and reviewed by an SAA or the Secretary.

(b) Where a manufacturer is required to provide correction under § 3282.406 or where the manufacturer otherwise corrects under § 3282.404(f) or § 3282.407(d), the manufacturer shall maintain in its files, for five years from the date the correction campaign is completed, one of the following, as appropriate, for each manufactured home involved.

(1) Where the correction is made, a certification by the manufacturer that the repair was made to satisfy completely the standards in effect at the time the manufactured home was manufactured and that any imminent safety hazard has been eliminated, or

(2) Where the owner refuses to allow the manufacturer to repair the home, a certification by the manufacturer that the owner has been informed of the problem which may exist in the manufactured home, that the owner has been informed of any risk to safety or durability of the manufactured home which may result from the problem, and that an attempt has been made to repair the problems only to have the owner refuse the repair.

(c) If any actions taken under this subpart are not adequate under the approved plan or an order of the Secretary or an SAA, the manufacturer may be required to provide additional notifications or corrections to satisfy the plan or order.

(d) If, in the course of making corrections under any of the provisions of this subpart, the manufacturer creates an imminent safety hazard or serious defect, the manufacturer shall correct the imminent safety hazard or serious defect under § 3282.406.

(e) The manufacturer shall, within 30 days after the deadline for completing any notifications and, where required, corrections, under an approved plan or under an order of an SAA or the Secretary, or any corrections required to obtain a waiver under § 3282.404(f) or § 3282.407(d), provide a complete report of the action taken to the SAA or the Secretary that approved the plan under § 3282.404(d), granted the waiver, or issued the order under § 3282.407(c), and to any other SAA or the Secretary that forwarded a relevant complaint or in-

formation to the manufacturer under § 3282.403.

#### **§ 3282.413 Replacement or repurchase of manufactured home from purchaser.**

(a) Whenever an imminent safety hazard or serious defect which must be corrected by the manufacturer at his expense under § 3282.407 cannot be repaired within 60 days in accordance with section 615(i) of the Act, the Secretary may require:

(1) That the manufactured home be replaced by the manufacturer with a manufactured home substantially equal in size, equipment, and quality, and either new or in the same condition the defective manufactured home would have been in at the time of discovery of the imminent safety hazard or serious defect had the imminent safety hazard or serious defect not existed; or

(2) That the manufacturer take possession of the manufactured home and refund the purchase price in full, less a reasonable allowance for depreciation based on actual use if the home has been in the possession of the owner for more than one year. Such depreciation shall be based upon an appraisal system approved by the Secretary, and shall not take into account damage or deterioration resulting from the imminent safety hazard or serious defect.

(b) In determining whether to order replacement or refund by the manufacturer, the Secretary shall consider:

(1) The threat of injury or death to manufactured home occupants;

(2) Any costs and inconvenience to manufactured home owners which will result from the lack of adequate repair within the specified period;

(3) The expense to the manufacturer;

(4) Any obligations imposed on the manufacturer under contract or other applicable law of which the Secretary has knowledge; and

(5) Any other relevant factors which may be brought to the attention of the Secretary.

(c) In those situations where, under contract or other applicable law, the owner has the right of election between replacement and refund, the manufacturer shall inform the owner of such right of election and shall inform the

Secretary of the election, if any, by the owner.

(d) This section applies where an attempted correction of an imminent safety hazard or serious defect relieves the safety problem but does not bring the home in conformity to the standards.

(e) Where replacement or refund by the manufacturer is ordered under this section, it shall be carried out within 30 days of the Secretary's order to replace the manufactured home or refund the purchase price unless the Secretary, for good cause shown, grants an extension of time for implementation of such order and publishes notice of extension in the FEDERAL REGISTER.

**§ 3282.414 Manufactured homes in the hands of dealers and distributors.**

(a) The manufacturer is responsible for correcting any failures to conform and imminent safety hazards which exist in manufactured homes which have been sold or otherwise released to a distributor or dealer but which have not yet been sold to a purchaser. This responsibility generally does not extend to failures to conform or imminent safety hazards that result solely from transit damage that occurs after the manufactured home leaves the control of the manufacturer, unless such transit damage is reasonably foreseeable by the manufacturer when the home is released by the manufacturer. This section sets out the procedures to be followed by dealers and distributors for handling manufactured homes in such cases. Regardless of whether the manufacturer is responsible for repairing a manufactured home, no dealer or distributor may sell a manufactured home if it contains a failure to conform or an imminent safety hazard.

(b) Whenever a dealer or distributor finds a problem in a manufactured home which the manufacturer is responsible for correcting under paragraph (a) of this section, the dealer or distributor shall contact the manufacturer, provide full information concerning the problem, and request appropriate action by the manufacturer in accord with paragraph (c) of this section. Where the manufacturer agrees to correct, the manufacturer shall maintain a complete record of its

actions. Where the manufacturer authorizes the dealer to make the necessary corrections on a reimbursable basis, the dealer or distributor shall maintain a complete record of its actions. Agreement by the manufacturer to correct or to authorize corrections on a reimbursable basis under this paragraph constitutes a determination of the Secretary for purposes of section 613(b) of the Act with respect to judicial review of the amount which the manufacturer agrees to reimburse the dealer or distributor for corrections.

(c) Upon a final determination by the Secretary or a State Administration Agency under § 3282.407, or upon a determination by a court of competent jurisdiction that a manufactured home fails to conform to the standard or contains an imminent safety hazard after such manufactured home is sold or otherwise released by a manufacturer to a distributor or a dealer and prior to the sale of such manufactured home by such distributor or dealer to a purchaser, the manufacturer shall have the option to either:

(1) Immediately furnish, at the manufacturer's expense, to the purchasing distributor or dealer the required conforming part or parts or equipment for installation by the distributor or dealer on or in such manufactured home, and the manufacturer shall reimburse such distributor or dealer for the reasonable value of such installation plus a reasonable reimbursement of not less than one per centum per month of the manufacturer's or distributor's selling price prorated from the date of receipt by certified mail of notice of non-compliance to the date such manufactured home is brought into compliance with the standards, so long as the distributor or dealer proceeds with reasonable diligence with the installation after the part or component is received; or

(2) Immediately repurchase, at the manufacturer's expense, such manufactured home from such distributor or dealer at the price paid by such distributor or dealer, plus all transportation charges involved and a reasonable reimbursement of not less than one per centum per month of such price paid prorated from the date of receipt